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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,109	06/29/2006	Henk Mosseveld	WAS0726PUSA	4337
22045	7590	04/30/2010		
BROOKS KUSHMAN P.C. 1000 TOWN CENTER TWENTY-SECOND FLOOR SOUTHFIELD, MI 48075				
EXAMINER				
REDDY, KARUNA P				
ART UNIT		PAPER NUMBER		
1796				
MAIL DATE		DELIVERY MODE		
04/30/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/551,109

**Applicant(s)**

MOSSEVELD ET AL.

**Examiner**

KARUNA P. REDDY

**Art Unit**

1796

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 February 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 20-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/22)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This office action is in reference to the amendment filed 2/5/2010. Claims 1-19 are cancelled. Accordingly, claims 20-39 are currently pending in the application.

Given that no amendments are made and the grounds of rejection remain unchanged from that set forth in the preceding office action, it is proper to make this action final.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 103***

3. Claims 20-27, 29-31, 34-37 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ritter et al (US 5,439,953) in view of Wendel et al (US 5, 358, 998).

The rejection is adequately set forth in paragraph 3 of office action mailed 11/5/2009.

4. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ritter et al (US 5,439,953) in view of Wendel et al (US 5, 358, 998), as applied to claim 31 above, in view of Miyamoto et al (JP 2002-020601).

The rejection is adequately set forth in paragraph 4 of office action mailed 11/5/2009.

5. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ritter et al (US 5,439,953) in view of Wendel et al (US 5, 358, 998), as applied to claim 27 above, and further in view of Famili et al (5,362,778).

The rejection is adequately set forth in paragraph 5 of office action mailed 11/5/2009.

6. Claims 33 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ritter et al (US 5,439,953) in view of Wendel et al (US 5, 358, 998), as applied to claim 31 above, and further in view of Hashemzadeh et al (US 2002/0135086 A1).

The rejection is adequately set forth in paragraph 6 of office action mailed 11/5/2009.

### ***Response to Arguments***

7. Applicant's arguments filed 2/5/2010 have been fully considered but they are not persuasive. Specifically, applicant argues that (A) the final form of polymers brought into contact with starch is an aqueous dispersion. Ritter's process does not involve a composition which contains both starch and redispersible polymer **powder** (emphasis added by applicant); (B) Wendel's polymer dispersion is essentially a homogenized polymer solution stabilized by the starch degradation products such as sugared products. In contrast Ritter's polymer dispersion is essentially a two-phase dispersion, formed of water phase and water-insoluble polymer phase. Hence, the availability and accessibility of water essential for starch digestion, in Ritter, is potentiated by the water insolubility of Ritter's polymers; (C) Wendel's teaching of redispersible polymer powder

cannot be isolated from Wendel's as a whole, nor can Wendel be combined with Ritter in total disregard for the salient features that are drastically different between Wendel and Ritter.

With respect to (A), Graham v. Deere analysis was made and motivation to bring in teachings from secondary reference of Wendel to use polymer in the form of redispersible polymer powder was articulated clearly in paragraph 3 of office action mailed 11/5/2009.

With respect to (B), firstly, both are directed to compositions comprising starch as well as polymers instantly claimed. Secondly, Ritter et al disclose materials based on starch which is thermomechanically digested at elevated pressures and temperatures and with the addition of water and/or lower molecular weight plasticizing agents. Hence, it is clear that starch, in an alternative embodiment, is thermomechanically digested with the addition of lower molecular weight plasticizing agents and does not require water.

With respect to (C), as stated earlier, Wendel is only used for its teaching that polymer dispersions comprising functionalized monomers provide increased internal strength, are redispersible (i.e. can be dispersed in water at a later stage) and the redispersible powder provides for ease of handling, storage and transportation. Case law holds that the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KARUNA P. REDDY whose telephone number is (571)272-6566. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published

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applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/K. P. R./  
Examiner, Art Unit 1796

/Vasu Jagannathan/  
Supervisory Patent Examiner, Art Unit 1796